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SEP 1 1 2006

OFFICE OF PETITIONS

In re Application of Suzuki et al.

Application No. 09/827,639

Filed: April 6, 2001 Patent No.: 6,985,501

Attorney Docket No. 6983/64

: DECISION DISMISSING PTA REQUEST

This is a decision on the "REQUEST FOR RECONSIDERATION Of PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)," timely filed on March 10, 2006. Patentees request that the patent issuing from the above-identified patent application be afforded a patent term adjustment of thirteen hundred and eight (1308) days rather that the USPTO calculation of eight hundred and ninety-three (893) days.

Patentees request for reconsideration is **DISMISSED.** The Office maintains that 893 days is the proper calculation of patent term adjustment at the time of the issuance of the patent.

Patentees assert that 893 days is inaccurate because the Office failed to provide any additional time for the provisions of 37 CFR 1.702(b). Patentees assert that the patent issued 644 days beyond the three year anniversary date. Patentees assert that only 226 days of the days overlap with the 644 days due to exceeding the three year provision. Accordingly, patentees believe that an additional 415 days (664-229=415) should be added to the 893-day determination that the Office calculated for PTA.

Patentees arguments are not persuasive. Patentees should be advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35

U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). Accordingly, because the amount of delay accrued exceeded the three year amount, the Office awarded no additional PTA under 37 CFR 1.702(b).

The Office acknowledges authorization to charge a fee of the \$200.00 fee set forth in 37 CFR 1.18(e) to Deposit Account 23-1925. No additional fees are required.

The application file is being forwarded to the file repository for proper maintenance of the patented file.

Telephone inquiries specific to this matter should be directed to Kery Fries at 571-272-7757.

Kery Fries

Senior Legal Advisor

Office of Patent Legal Administration

Office of Deputy Commissioner

for Patent Examination Policy

cc: PAIR calculation



Day : Saturday Date: 9/2/2006 Time: 12:13:03

PTA Calculations for Application: <u>09/827639</u>								
Application Filing Date:	04/06/2001	PTO Delay (PTO):	896					
Issue Date of Patent:	01/10/2006	Three Years:	0					
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3					
Post-Issue Petitions:	0	Total PTA (days):	893					
PTO Delay Adjustment:	0							

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File Contents History							
Number	Date	Contents Description	PTO	APPL	START		
33.5	12/21/2005	PTA 36 MONTHS					
33	01/10/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	4		28		
32	12/13/2005	EXPORT TO FINAL DATA CAPTURE					
31	12/10/2005	FINISHED INITIAL DATA CAPTURE					
30	12/12/2005	DISPATCH TO FDC					
29	11/08/2005	APPLICATION IS CONSIDERED READY FOR ISSUE					
28	09/06/2005	ISSUE FEE PAYMENT VERIFIED					
27	09/06/2005	ISSUE FEE PAYMENT RECEIVED					
26	06/22/2005	EXPORT TO INITIAL DATA CAPTURE					
25	06/17/2005	MAIL NOTICE OF ALLOWANCE	10		15		
24	06/15/2005	ISSUE REVISION COMPLETED					
23	06/15/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED					
22	06/15/2005	CASE DOCKETED TO EXAMINER IN GAU					
21	06/13/2005	NOTICE OF ALLOWABILITY					
20	04/21/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE					
19	04/06/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)					
17	02/07/2005	NEW OR ADDITIONAL DRAWING FILED					
16	04/21/2005	DATE FORWARDED TO EXAMINER					
15	02/07/2005	RESPONSE AFTER NON-FINAL ACTION		3	12		
14	05/14/2003	REFERENCE CAPTURE ON IDS					
13	02/07/2005	WORKFLOW INCOMING AMENDMENT IFW					
12	11/04/2004	MAIL NON-FINAL REJECTION	882		-1		
11	11/01/2004	NON-FINAL REJECTION					

10	09/29/2004	CASE DOCKETED TO EXAMINER IN GAU		
9	05/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
8	03/11/2002	CASE DOCKETED TO EXAMINER IN GAU		
7	09/07/2001	CASE DOCKETED TO EXAMINER IN GAU		
6	08/23/2001	APPLICATION DISPATCHED FROM OIPE		
5	05/22/2001	APPLICATION IS NOW COMPLETE		
4	1115//////	NOTICE MAILEDAPPLICATION INCOMPLETE FILING DATE ASSIGNED		,
3	05/21/2001	CORRESPONDENCE ADDRESS CHANGE		
2	04/22/2001	IFW SCAN & PACR AUTO SECURITY REVIEW		
1	04/06/2001	INITIAL EXAM TEAM NN		

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

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